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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 29th March, 1976:—

I

BILL No. XXI OF 1976

A Bill to repeal the Tariff Commission Act, 1951.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Tariff Commission (Repeal) Act, 1976.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appointed day" means the date on which this Act comes into force;

50 of 1951.

(*b*) "Tariff Commission" means the Tariff Commission established under the Tariff Commission Act, 1951.

Repeal of Act 50 of 1951 and abolition of the Tariff Commission.

3. On the appointed day, the Tariff Commission Act, 1951 (hereinafter referred to as the principal Act), shall stand repealed, and the Tariff Commission shall cease to exist.

Consequential provisions.

4. (*1*) Any inquiry under section 12 of the principal Act, pending immediately before the appointed day shall, on the appointed day, terminate:

Provided that nothing contained in this sub-section shall be deemed to affect the powers of the Central Government to appoint a commission or other body to inquire into any matter to which any such inquiry is relatable.

(*2*) Where a commission or other body has been appointed to inquire into any matter under the proviso to sub-section (*1*), any information relating to any industry which has been obtained by or on behalf of the Tariff Commission for the purpose of its functions under the principal Act, may, notwithstanding anything contained in section 22 of the principal Act, be made available by the Central Government to the commission or other body aforesaid for the purpose of the relevant inquiry:

Provided that the said commission or other body shall not in turn disclose any such information unless such disclosure is made with the previous consent in writing of the owner for the time being of the industry concerned and it is necessary for the purposes of the inquiry so to do:

Provided further that nothing in this sub-section shall apply to the disclosure of any such information for the purpose of—

(*i*) any legal proceeding which may be taken in pursuance of the findings of such a commission or other body, or

(*ii*) any report relating to any such proceedings.

(*3*) If any person discloses any information in contravention of sub-section (*2*), he shall be punishable on conviction with fine, which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

(*4*) Any thing, or any action, which ought to have been done or taken by the Tariff Commission before the appointed day with respect to the termination of service of its employees or with respect to any matter in relation thereto or arising therefrom, but not so done or taken by that Commission may, on and from the appointed day, be done or taken by the Central Government.

STATEMENT OF OBJECTS AND REASONS

The object of the present Bill is to abolish the Tariff Commission which was established by the Tariff Commission Act, 1951 (50 of 1951), on the recommendation of the Second Fiscal Commission, for the examination of cases relating to protection to industries. The main functions at present performed by the Tariff Commission relate to inquiries regarding the grant of protection to indigenous industries and other matters connected with it, as also to the price fixation of particular commodities. The need for grant of protection through the mechanism of the Tariff Commission has now become redundant in view of the *de facto* protection that indigenous industries enjoy by virtue of the import control regulations, which is necessitated by balance of payments considerations and of the other measures taken by Government from time to time for ensuring the planned development of industries in the country. The number of price fixation inquiries entrusted to the Tariff Commission has also dwindled considerably. Since it is possible to perform the limited functions now discharged by the Tariff Commission without recourse to the Commission, it does not appear necessary to continue the same. It is, therefore, proposed to repeal the Tariff Commission Act.

D. P. CHATTOPADHYAYA

NEW DELHI;
The 19th March, 1976.

II

BILL NO. XXII OF 1976

A Bill further to amend the Hindu Marriage Act, 1955 and the Special Marriage Act, 1954.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title.

1. This Act may be called the Marriage Laws (Amendment) Act, 1976.

CHAPTER II

AMENDMENTS TO THE HINDU MARRIAGE ACT, 1955

Amendment of section 5.

2. In the Hindu Marriage Act, 1955 (hereinafter referred to as the Hindu Marriage Act), in section 5, for clause (*ii*), the following clause shall be substituted, namely:— 25 of 1955.

"(*ii*) at the time of the marriage, neither party—

(*a*) is incapable of giving a valid consent to it in consequence of unsoundness of mind; or

(*b*) though capable of giving a valid consent, has been suffering from mental disorder of such a kind or to such an extent as to be unfit for marriage and the procreation of children; or

(c) has been subject to recurrent attacks of insanity or epilepsy;".

3. In section 9 of the Hindu Marriage Act,— Amendment of section 9.

(*a*) in sub-section (*1*), the brackets and figure "(*1*)" shall be omitted and to that sub-section as so amended, the following *Explanation* shall be added, namely:—

"*Explanation.*—Where a question arises whether there has been reasonable excuse for withdrawal from the society, the burden of proving reasonable excuse shall be on the person who has withdrawn from the society.";

(*b*) sub-section (*2*) shall be omitted.

4. In section 10 of the Hindu Marriage Act, for sub-section (*1*) and the *Explanation* thereunder, the following sub-section shall be substituted, namely:— Amendment of section 10.

"(*1*) Either party to a marriage, whether solemnized before or after the commencement of this Act, may present a petition praying for a decree for judicial separation on any of the grounds specified in sub-section (*1*) of section 13, and in the case of a wife also on any of the grounds specified in sub-section (*2*) thereof, as grounds on which a petition for divorce might have been presented.".

5. In section 11 of the Hindu Marriage Act, after the words "presented by either party thereto", the words "against the other party" shall be inserted. Amendment of section 11.

6. In section 12 of the Hindu Marriage Act,— Amendment of section 12.

(*a*) in sub-section (*1*),—

(*i*) for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) that the marriage has not been consummated owing to the impotence of the respondent; or ";

(*ii*) in clause (*c*), for the words "or fraud", the words "or by fraud as to the nature of the ceremony or as to any material fact or circumstance concerning the respondent" shall be substituted;

(*b*) in sub-section (*2*), in clause (*b*), in sub-clause (*iii*), for the words "the grounds for a decree", the words "the said ground" shall be substituted.

7. In section 13 of the Hindu Marriage Act,— Amendment of section 13.

(*a*) in sub-section (*1*),—

(*i*) for clause (*i*), the following clauses shall be substituted, namely:—

"(*i*) has, after the solemnization of the marriage, had voluntary sexual intercourse with any person other than his or her spouse; or

(*ia*) has, after the solemnization of the marriage, treated the petitioner with cruelty; or

(*ib*) has deserted the petitioner for a continuous period of not less than two years immediately preceding the presentation of the petition; or";

(*ii*) for clause (*iii*), the following clause shall be substituted, namely:—

'(*iii*) has been incurably of unsound mind, or has been suffering continuously or intermittently from mental disorder of such a kind and to such an extent that the petitioner cannot reasonably be expected to live with the respondent.

Explanation.—In this clause,—

(*a*) the expression "mental disorder" means mental illness, arrested or incomplete development of mind, psychopathic disorder or any other disorder or disability of mind and includes schizophrenia;

(*b*) the expression "psychopathic disorder" means a persistent disorder or disability of mind (whether or not including sub-normality of intelligence) which results in abnormally aggressive or seriously irresponsible conduct on the part of the other party, and whether or not it requires or is susceptible to medical treatment; or';

(*iii*) in clauses (*iv*) and (*v*), the words ", for a period of not less than three years immediately preceding the presentation of the petition," shall be omitted;

(*iv*) after clause (*vii*), the following *Explanation* shall be inserted, namely:—

'*Explanation.*—In this sub-section, the expression "desertion" means the desertion of the petitioner by the other party to the marriage without reasonable cause and without the consent or against the wish of such party, and includes the wilful neglect of the petitioner by the other party to the marriage, and its grammatical variations and cognate expressions shall be construed accordingly.':

(*b*) in sub-section (*1A*), for the words "two years", in the two places where they occur, the words "one year" shall be substituted;

(*c*) in sub-section (*2*),—

(*i*) in clause (*ii*), for the word "bestiality", the words "bestiality; or" shall be substituted;

(*ii*) after clause (*ii*) as so amended, the following clauses shall be inserted, namely:—

"(*iii*) that in a suit under section 18 of the Hindu Adoptions and Maintenance Act, 1956, or in a proceeding under section 125 of the Code of Criminal Procedure, 1973 (or under the corresponding section 488 of the Code of Criminal Procedure, 1898), a decree or order, as the case may be, has been passed against the husband awarding mainte- 78 of 1956. 2 of 1974. 5 of 1898.

nance to the wife notwithstanding that she was living apart and that since the passing of such decree or order, cohabitation between the parties has not been resumed for one year or upwards;

(*iv*) that her marriage (whether consummated or not) was solemnized before she attained the age of fifteen years and she has repudiated the marriage after attaining that age but before attaining the age of eighteen years.

Explanation.—This clause applies whether the marriage was solemnized before or after the commencement of the Marriage Laws (Amendment) Act, 1976.".

Insertion of new sections 13A and 13B.

8. After section 13 of the Hindu Marriage Act as so amended, the following sections shall be inserted, namely:—

Alternate relief in divorce proceedings.

"13A. In any proceeding under this Act, on a petition for dissolution of marriage by a decree of divorce, except in so far as the petition is founded on the grounds mentioned in clauses (*ii*), (*vi*) and (*vii*) of sub-section (*1*) of section 13, the court may, if it considers it just so to do having regard to the circumstances of the case, pass instead a decree for judicial separation.

Divorce by mutual consent.

13B. (*1*) Subject to the provisions of this Act a petition for dissolution of marriage by a decree of divorce may be presented to the district court by both the parties to a marriage together, whether such marriage was solemnized before or after the commencement of the Marriage Laws (Amendment) Act, 1976, on the ground that they have been living separately for a period of one year or more, that they have not been able to live together and that they have mutually agreed that the marriage should be dissolved.

(*2*) On the motion of both the parties made not earlier than six months after the date of the presentation of the petition referred to in sub-section (*1*) and not later than eighteen months after the said date, if the petition is not withdrawn in the meantime, the court shall, on being satisfied, after hearing the parties and after making such inquiry as it thinks fit, that a marriage has been solemnized and that the averments in the petition are true, pass a decree of divorce declaring the marriage to be dissolved with effect from the date of the decree.".

Amendment of section 14.

9. In section 14 of the Hindu Marriage Act,—

(*i*) in sub-section (*1*),—

(*a*) for the words "unless at the date of the presentation of the petition three years have elapsed", the words "unless at the date of the presentation of the petition one year has elapsed" shall be substituted;

(*b*) in the proviso,—

(*1*) for the words "before three years have elapsed", the words "before one year has elapsed" shall be substituted;

(2) for the words "expiry of three years", the words "expiry of one year" shall be substituted;

(3) for the words "expiration of the said three years", the words "expiration of the said one year" shall be substituted;

(*ii*) in sub-section (2),—

(*a*) for the words "expiration of three years", the words "expiration of one year" shall be substituted;

(*b*) for the words "said three years", the words "said one year" shall be substituted.

Amendment of section 15.

10. In section 15 of the Hindu Marriage Act, the proviso shall be omitted.

Substitution of new section for section 16.

11. For section 16 of the Hindu Marriage Act, the following section shall be substituted, namely:—

Legitimacy of children of void and voidable marriages

"16. (*1*) Notwithstanding that a marriage is null and void under section 11, any child of such marriage who would have been legitimate if the marriage had been valid, shall be legitimate, whether such child is born before or after the commencement of the Marriage Laws (Amendment) Act, 1976, and whether or not a decree of nullity is granted in respect of that marriage under this Act and whether or not the marriage is held to be void otherwise than on a petition under this Act.

(*2*) Where a decree of nullity is granted in respect of a voidable marriage under section 12, any child begotten or conceived before the decree is made, who would have been the legitimate child of the parties to the marriage if at the date of the decree it had been dissolved instead of being annulled, shall be deemed to be their legitimate child notwithstanding the decree of nullity.

(*3*) Nothing contained in sub-section (1) or sub-section (2) shall be construed as conferring upon any child of a marriage which is null and void or which is annulled by a decree of nullity under section 12, any rights in or to the property of any person, other than the parents, in any case where, but for the passing of this Act, such child would have been incapable of possessing or acquiring any such rights by reason of his not being the legitimate child of his parents.".

Substitution of new section for section 19.

12. For section 19 of the Hindu Marriage Act, the following section shall be substituted, namely:—

Court to which petition shall be presented

"19. Every petition under this Act shall be presented to the district court within the local limits of whose ordinary original civil jurisdiction—

(*i*) the marriage was solemnized, or

(*ii*) the respondent, at the time of the presentation of the petition, resides, or

(*iii*) the parties to the marriage last resided together, or

(*iv*) the petitioner is residing at the time of the presentation of the petition, in a case where the respondent is, at that time, residing outside the territories to which this Act extends, or has not been heard of as being alive for a period of seven years or more by those persons who would naturally have heard of him if he were alive.".

Amendment of section 20.

13. In section 20 of the Hindu Marriage Act, in sub-section (*1*), for the words "and shall also state", the words and figures "and, except in a petition under section 11, shall also state" shall be substituted.

Insertion of new sections 21A, 21B and 21C.

14. After section 21 of the Hindu Marriage Act, the following sections shall be inserted, namely:—

Power to transfer petitions in certain cases.

"21A. (*1*) Where—

(*a*) a petition under this Act has been presented to a district court having jurisdiction by a party to a marriage praying for a decree for judicial separation under section 10 or for a decree of divorce under section 13, and

(*b*) another petition under this Act has been presented thereafter by the other party to the marriage praying for a decree for judicial separation under section 10 or for a decree of divorce under section 13 on any ground, whether in the same district court or in a different district court, in the same State or in a different State,

the petitions shall be dealt with as specified in sub-section (*2*).

(*2*) In a case where sub-section (*1*) applies,—

(*a*) if the petitions are presented to the same district court, both the petitions shall be tried and heard together by that district court;

(*b*) if the petitions are presented to different district courts, the petition presented later shall be transferred to the district court in which the earlier petition was presented and both the petitions shall be heard and disposed of together by the district court in which the earlier petition was presented.

(*3*) In a case where clause (*b*) of sub-section (*2*) applies, the court or the Government, as the case may be, competent under the Code of Civil Procedure, 1908 to transfer any suit or proceeding from the district court in which the later petition has been presented to the district court in which the earlier petition is pending, shall exercise its powers to transfer such later petition as if it had been empowered so to do under the said Code.

5 of 1908.

Special provision relating to trial and disposal of petitions under the Act.

21B. (*1*) The trial of a petition under this Act shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day until its conclusion unless the court finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded.

(2) Every petition under this Act shall be tried as expeditiously as possible and endeavour shall be made to conclude the trial within six months from the date of service of notice of the petition on the respondent.

(3) Every appeal under this Act shall be heard as expeditiously as possible, and endeavour shall be made to conclude the hearing within three months from the date of service of notice of appeal on the respondent.

Documentary evidence

21C. Notwithstanding anything in any enactment to the contrary, no document shall be inadmissible in evidence in any proceeding at the trial of a petition under this Act on the ground that it is not duly stamped or registered.".

Substitution of new section for section 22.

15. For section 22 of the Hindu Marriage Act, the following section shall be substituted, namely:—

Proceedings to be *in camera* and may not be printed or published.

"22. (1) Every proceeding under this Act shall be conducted *in camera* and it shall not be lawful for any person to print or publish any matter in relation to any such proceeding except a judgment of the High Court or of the Supreme Court printed or published with the previous permission of the Court.

(2) If any person prints or publishes any matter in contravention of the provisions contained in sub-section (1), he shall be punishable with fine which may extend to one thousand rupees.".

Amendment of section 23.

16. In section 23 of the Hindu Marriage Act,—

(a) in sub-section (1),—

(i) in clause (a), after the words "the petitioner", the brackets, words, letters and figure "[except in cases where the relief is sought by him on the ground specified in sub-clause (a), sub-clause (b) or sub-clause (c) of clause (ii) of section 5]" shall be inserted;

(ii) in clause (b), the words, brackets, letter and figures "in clause (f) of sub-section (1) of section 10, or" shall be omitted;

(iii) after clause (b), the following clause shall be inserted, namely:—

"(bb) when a divorce is sought on the ground of mutual consent, such consent has not been obtained by force, fraud or undue influence, and";

(iv) in clause (c), for the words "the petition", the words, brackets and figures "the petition (not being a petition presented under section 11)" shall be substituted;

(b) to sub-section (2), the following proviso shall be added at the end, namely:—

"Provided that nothing contained in this sub-section shall apply to any proceeding wherein relief is sought on any of the grounds specified in clause (ii), clause (iii), clause (iv), clause (v), clause (vi) or clause (vii) of sub-section (1) of section 13.";

(c) after sub-section (2) as so amended, the following sub-sections shall be inserted, namely:—

"(3) For the purpose of aiding the court in bringing about such reconciliation, the court may, if the parties so desire or if the court thinks it just and proper so to do, adjourn the proceedings for a reasonable period not exceeding fifteen days and refer the matter to any person named by the parties in this behalf or to any person nominated by the court if the parties fail to name any person, with directions to report to the court as to whether reconciliation can be and has been, effected and the court shall in disposing of the proceeding have due regard to the report.

(4) In every case where a marriage is dissolved by a decree of divorce, the court passing the decree shall give a copy thereof free of cost to each of the parties.".

Insertion of new section 23A. Relief for respondent in divorce and other proceedings.

17. After section 23 of the Hindu Marriage Act, the following section shall be inserted, namely:—

"23A. In any proceeding for divorce or judicial separation or restitution of conjugal rights, the respondent may not only oppose the relief sought on the ground of petitioner's adultery, cruelty or desertion, but also make a counter-claim for any relief under this Act on that ground; and if the petitioner's adultery, cruelty or desertion is proved, the court may give to the respondent any relief under this Act to which he or she would have been entitled if he or she had presented a petition seeking such relief on that ground.".

Amendment of section 25.

18. In section 25 of the Hindu Marriage Act,—

(*a*) in sub-section (*1*),—

(*i*) the words ", while the applicant remains unmarried," shall be omitted;

(*ii*) for the words "and the conduct of the parties", the words ", the conduct of the parties and other circumstances of the case" shall be substituted;

(*b*) in sub-section (3), for the words "it shall rescind the order", the words "it may at the instance of the other party vary, modify or rescind any such order in such manner as the court may deem just" shall be substituted.

Substitution of new sections for section 28.

19. For section 28 of the Hindu Marriage Act, the following sections shall be substituted, namely:—

Appeals from decrees and orders.

"28. (*1*) All decrees made by the court in any proceeding under this Act shall, subject to the provisions of sub-section (3), be appealable as decrees of the court made in the exercise of its original civil jurisdiction, and every such appeal shall lie to the court to which appeals ordinarily lie from the decisions of the court given in the exercise of its original civil jurisdiction.

(2) Orders made by the court in any proceeding under this Act, under section 25 or section 26 of this Act shall, subject to the provisions of sub-section (3), be appealable if they are not in the nature of interim orders, and every such appeal shall lie to the court to which appeals ordinarily lie from the decisions of the court given in exercise of its original civil jurisdiction.

(3) There shall be no appeal under this section on the subject of costs only.

(4) Every appeal under this section shall be preferred within a period of thirty days from the date of the decree or order.

Enforcement of decrees and orders.

28A. All decrees and orders made by the court in any proceeding under this Act shall be enforced in the like manner as the decrees and orders of the court made in the exercise of its original civil jurisdiction for the time being are enforced.".

CHAPTER III

AMENDMENTS TO THE SPECIAL MARRIAGE ACT, 1954

Amendment of section 2.

20. In section 2 of the Special Marriage Act, 1954 (hereinafter referred to as the Special Marriage Act), for clause (*e*), the following clause shall be substituted, namely:— 43 of 1954.

'(*e*) "district court" means, in any area for which there is a city civil court, that court, and in any other area, the principal civil court of original jurisdiction, and includes any other civil court which may be specified by the State Government by notification in the Official Gazette as having jurisdiction in respect of the matters dealt with in this Act;'.

Amendment of section 4.

21. In section 4 of the Special Marriage Act, for clause (*b*), the following clause shall be substituted, namely:—

"(*b*) neither party—

(*i*) is incapable of giving a valid consent to it in consequence of unsoundness of mind; or

(*ii*) though capable of giving a valid consent, has been suffering from mental disorder of such a kind or to such an extent as to be unfit for marriage and the procreation of children; or

(*iii*) has been subject to recurrent attacks of insanity or epilepsy;".

Insertion of new section 21A.

22. In Chapter IV of the Special Marriage Act, after section 21, the following section shall be inserted, namely:—

Special provision in certain cases.

"21A. Where the marriage is solemnized under this Act of any person who professes the Hindu, Buddhist, Sikh or Jaina religion with a person who professes the Hindu, Buddhist, Sikh or Jaina religion, section 19 and section 21 shall not apply and so much of section 20 as creates a disability shall also not apply.".

Amendment of section 22.

23. To section 22 of the Special Marriage Act, the following *Explanation* shall be added at the end, namely:—

"*Explanation.*—Where a question arises whether there has been reasonable excuse for withdrawal from the society, the burden of proving reasonable excuse shall be on the person who has withdrawn from the society.".

Amendment of section 23.

24. In section 23 of the Special Marriage Act, in sub-section (*1*), in clause (*a*), after the word, brackets and figure "sub-section (*1*)", the words, brackets, figure and letter "and sub-section (*1A*)" shall be inserted.

Amendment of section 24.

25. In section 24 of the Special Marriage Act, in sub-section (*1*), for the words "and may be so declared", the words "and may, on a petition presented by either party thereto against the other party, be so declared" shall be substituted.

Substitution of new section for section 26

26. For section 26 of the Special Marriage Act, the following section shall be substituted, namely:—

Legitimacy of children of void and voidable marriages.

"26. (*1*) Notwithstanding that a marriage is null and void under section 24, any child of such marriage who would have been legitimate if the marriage had been valid, shall be legitimate, whether such child is born before or after the commencement of the Marriage Laws (Amendment) Act, 1976, and whether or not a decree of nullity is granted in respect of that marriage under this Act and whether or not the marriage is held to be void otherwise than on a petition under this Act.

(*2*) Where a decree of nullity is granted in respect of a voidable marriage under section 25, any child begotten or conceived before the decree is made who would have been the legitimate child of the parties to the marriage if at the date of the decree it has been dissolved instead of being annulled, shall be deemed to be their legitimate child notwithstanding the decree of nullity.

(*3*) Nothing contained in sub-section (*1*) or sub-section (*2*) shall be construed as conferring upon any child of a marriage which is null and void or which is annulled by a decree of nullity under section 25, any rights in or to the property of any person, other than the parents, in any case where, but for the passing of this Act, such child would have been incapable of possessing or acquiring any such rights by reason of his not being the legitimate child of his parents.".

Amendment of section 27.

27. In section 27 of the Special Marriage Act, in sub-section (*1*),—

(*a*) for clauses (*a*) and (*b*), the following clauses shall be substituted, namely:—

"(*a*) has, after the solemnization of the marriage, had voluntary sexual intercourse with any person other than his or her spouse; or

(b) has deserted the petitioner for a continuous period of not less than two years immediately preceding the presentation of the petition; or";

(b) in clause (c), the proviso shall be omitted;

(c) for clauses (e) and (f), the following clauses shall be substituted, namely:—

'(e) has been incurably of unsound mind, or has been suffering continuously or intermittently from mental disorder of such a kind and to such an extent that the petitioner cannot reasonably be expected to live with the respondent.

Explanation.—In this clause,—

(a) the expression "mental disorder" means mental illness, arrested or incomplete development of mind, psychopathic disorder or any other disorder or disability of mind and includes schizophrenia;

(b) the expression "psychopathic disorder" means a persistent disorder or disability of mind (whether or not including sub-normality of intelligence) which results in abnormally aggressive or seriously irresponsible conduct on the part of the respondent, and whether or not it requires or is susceptible to medical treatment; or

(f) has been suffering from venereal disease in a communicable form; or';

(d) in clause (g), the words "for a period of not less than three years immediately preceding the presentation of the petition" shall be omitted;

(e) after clause (h), the following *Explanation* shall be inserted, namely:—

'*Explanation.*—In this sub-section, the expression "desertion" means desertion of the petitioner by the other party to the marriage without reasonable cause and without the consent or against the wish of such party, and includes the wilful neglect of the petitioner by the other party to the marriage, and its grammatical variations and cognate expressions shall be construed accordingly;';

(f) the words "and by the wife on the ground that her husband has, since the solemnization of the marriage, been guilty of rape, sodomy or bestiality" occurring at the end shall be omitted;

(g) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) A wife may also present a petition for divorce to the district court on the ground,—

(i) that her husband has, since the solemnization of the marriage, been guilty of rape, sodomy or bestiality;

78 of 1956.
2 of 1974.
5 of 1898.

(*ii*) that in a suit under section 18 of the Hindu Adoptions and Maintenance Act, 1956, or in a proceeding under section 125 of the Code of Criminal Procedure, 1973 (or under the corresponding section 488 of the Code of Criminal Procedure, 1898), a decree or order, as the case may be, has been passed against the husband awarding maintenance to the wife notwithstanding that she was living apart and that since the passing of such decree or order, cohabitation between the parties has not been resumed for one year or upwards.".

Insertion of new section 27A.

28. After section 27 of the Special Marriage Act as so amended, the following section shall be inserted, namely:—

Alternate relief in divorce proceedings.

"27A. In any proceeding under this Act, on a petition for dissolution of marriage by a decree of divorce, except in so far as the petition is founded on the ground mentioned in clause (*h*) of sub-section (*1*) of section 27, the court may, if it considers it just so to do having regard to the circumstances of the case, pass instead a decree for judicial separation.".

Amendment of section 28.

29. In section 28 of the Special Marriage Act, in sub-section (*2*), for the words, brackets and figure "On the motion of both the parties made not earlier than one year after the date of the presentation of the petition referred to in sub-section (*1*) and not later than two years", the words, brackets and figure "On the motion of both the parties made not earlier than six months after the date of the presentation of the petition referred to in sub-section (*1*) and not later than eighteen months" shall be substituted.

Amendment of section 29.

30. In section 29 of the Special Marriage Act,—

(*i*) in sub-section (*1*),—

(*a*) for the words "unless at the date of the presentation of the petition three years have passed", the words "unless at the date of the presentation of the petition one year has passed" shall be substituted;

(*b*) in the proviso,—

(*1*) for the words "before three years have passed", the words "before one year has passed" shall be substituted;

(*2*) for the words "expiry of three years", the words "expiry of one year" shall be substituted;

(*3*) for the words "expiration of the said three years", the words "expiration of the said one year" shall be substituted;

(*ii*) in sub-section (*2*),—

(*a*) for the words "expiration of three years", the words "expiration of one year" shall be substituted;

(*b*) for the words "said three years", the words "said one year" shall be substituted.

Amendment of section 30.

31. In section 30 of the Special Marriage Act, the words "and one year has elapsed thereafter but not sooner," shall be omitted.

Amendment of section 31.

32. For sub-section (*1*) of section 31 of the Special Marriage Act, the following sub-section shall be substituted, namely:—

"(*1*) Every petition under Chapter V or Chapter VI shall be presented to the district court within the local limits of whose original civil jurisdiction—

(*i*) the marriage was solemnized; or

(*ii*) the respondent, at the time of the presentation of the petition resides; or

(*iii*) the parties to the marriage last resided together; or

(*iv*) the petitioner is residing at the time of the presentation of the petition, in a case where the respondent is at that time residing outside the territories to which this Act extends, or has not been heard of as being alive for a period of seven years by those who would naturally have heard of him if he were alive.".

Substitution of new section for section 33.

33. For section 33 of the Special Marriage Act, the following section shall be substituted, namely:—

Proceedings to be *in camera* and may not be printed or published.

"33. (*1*) Every proceeding under this Act shall be conducted *in camera* and it shall not be lawful for any person to print or publish any matter in relation to any such proceeding except a judgment of the High Court or of the Supreme Court printed or published with the previous permission of the Court.

(*2*) If any person prints or publishes any matter in contravention of the provisions contained in sub-section (*1*) he shall be punishable with fine which may extend to one thousand rupees.".

Amendment of section 34.

34. In section 34 of the Special Marriage Act,—

(*a*) in sub-section (*1*), in clause (*b*), for the words "where the ground of the petition is adultery, the petitioner has not in any manner been accessory to or connived at or condoned the adultery,", the words, brackets, letters and figures "where the petition is founded on the ground specified in clause (*a*) of sub-section (*1*) of section 27, the petitioner has not in any manner been accessory to or connived at or condoned the act of sexual intercourse referred to therein," shall be substituted;

(*b*) to sub-section (*2*), the following proviso shall be added at the end, namely:—

"Provided that nothing contained in this sub-section shall apply to any proceeding wherein relief is sought on any of the

grounds specified in clause (*c*), clause (*e*), clause (*f*), clause (*g*) and clause (*h*) of sub-section (*1*) of section 27.";

(c) after sub-section (*2*) as so amended, the following sub-sections shall be inserted, namely:—

"(*3*) For the purpose of aiding the court in bringing about such reconciliation, the court may, if the parties so desire or if the court thinks it just and proper so to do, adjourn the proceedings for a reasonable period not exceeding fifteen days and refer the matter to any person named by the parties in this behalf or to any person nominated by the court if the parties fail to name any person, with directions to report to the court as to whether reconciliation can be and has been, effected and the court shall in disposing of the proceeding have due regard to the report.

(*4*) In every case where a marriage is dissolved by a decree of divorce, the court passing the decree shall give a copy thereof free of cost to each of the parties.".

Substitution of new section for section 35.

35. For section 35 of the Special Marriage Act, the following section shall be substituted, namely:—

Relief for respondent in divorce and other proceedings.

"35. In any proceeding for divorce or judicial separation or restitution of conjugal rights, the respondent may not only oppose the relief sought on the ground of adultery, cruelty or desertion, but also make a counter-claim for any relief under this Act on that ground, and if the petitioner's adultery, cruelty or desertion is proved, the court may give to the respondent any relief under this Act to which he or she would have been entitled if he or she had presented a petition seeking such relief on that ground.".

Amendment of section 37.

36. In section 37 of the Special Marriage Act,—

(*a*) in sub-section (*1*), for the words "and the conduct of the parties", the words "the conduct of the parties and other circumstances of the case" shall be substituted;

(*b*) in sub-section (*3*), for the words "it shall rescind the order", the words "it may, at the instance of the husband vary, modify or rescind any such order and in such manner as the court may deem just" shall be substituted.

Substitution of new sections for section 39.

37. For section 39 of the Special Marriage Act, the following sections shall be substituted, namely:—

Appeals from decrees and orders.

"39. (*1*) All decrees made by the court in any proceeding under Chapter V or Chapter VI shall, subject to the provisions of sub-section (*3*), be appealable as decrees of the court made in the exercise of its original civil jurisdiction, and such appeal shall lie to the court to which appeals ordinarily lie from the decisions of the court given in the exercise of its original civil jurisdiction.

(2) Orders made by the court in any proceeding under this Act, under section 37 or section 38 shall, subject to the provisions of sub-section (3), be appealable if they are not interim orders, and such appeal shall lie to the court to which appeals ordinarily lie from the decisions of the court given in the exercise of its original civil jurisdiction.

(3) There shall be no appeal under this section on the subject of costs only.

(4) Every appeal under this section shall be preferred within a period of thirty days from the date of the decree or order.

Enforcement of decrees and orders.

39A. All decrees and orders made by the court in any proceeding under Chapter V or Chapter VI shall be enforced in the like manner as the decrees and orders of the court made in the exercise of its original civil jurisdiction for the time being are enforced.".

Insertion of new sections 40A, 40B and 40C.

38. After section 40 of the Special Marriage Act, the following sections shall be inserted, namely:—

Power to transfer petitions in certain cases.

"40A. (1) Where—

(a) a petition under this Act has been presented to the district court having jurisdiction by a party to the marriage praying for a decree for judicial separation under section 23 or for a decree of divorce under section 27, and

(b) any other petition under this Act has been presented thereafter by the other party to the marriage praying for decree for judicial separation under section 23, or for decree of divorce under section 27 on any ground whether in the same district court or in different district court, in the same State or in a different State,

the petition shall be dealt with as specified in sub-section (2).

(2) In a case where sub-section (1) applies,—

(a) if the petitions are presented to the same district court, both the petitions shall be tried and heard together by that district court;

(b) if the petitions are presented to different district courts, the petition presented later shall be transferred to the district court in which the earlier petition was presented and both the petitions shall be heard and disposed of together by the district court in which the earlier petition was presented.

(3) In a case where clause (b) of sub-section (2) applies, the court or the Government, as the case may be, competent under the Code of Civil Procedure, 1908 to transfer any suit or proceeding from the district court in which the later petition has been presented to the district court in which the earlier petition is pending, shall exercise its powers to transfer such later petition as if it had been empowered so to do under the said Code. 5 of 1908.

Special provision relating to trial and disposal of petitions under the Act.

40B. (*1*) The trial of a petition under this Act shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day until its conclusion, unless the court finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded.

(*2*) Every petition under this Act shall be tried as expeditiously as possible and endeavour shall be made to conclude the trial within six months from the date of service of notice of the petition on the respondent.

(*3*) Every appeal under this Act shall be heard as expeditiously as possible, and endeavour shall be made to conclude the hearing within three months from the date of service of notice of appeal on the respondent.

Documentary evidence.

40C. Notwithstanding anything contained in any enactment to the contrary, no document shall be inadmissible in evidence in any proceeding at the trial of a petition under this Act on the ground that it is not duly stamped or registered.".

Special provision as to pending cases.

39. (*1*) All petitions and proceedings in causes and matters matrimonial which are pending in any court at the commencement of the Marriage Laws (Amendment) Act, 1976, shall be dealt with and decided by such court—

(*i*) if it is a petition or proceeding under the Hindu Marriage Act, then so far as may be, as if it had been originally instituted therein under the Hindu Marriage Act, as amended by this Act;

(*ii*) if it is a petition or proceeding under the Special Marriage Act, then so far as may be, as if it had been originally instituted therein under the Special Marriage Act, as amended by this Act.

(*2*) In every petition or proceeding to which sub-section (*1*) applies, the court in which the petition or proceeding is pending shall give an opportunity to the parties to amend the pleadings, in so far as such amendment is necessary to give effect to the provisions of sub-section (*1*), within such time as it may allow in this behalf and any such amendment may include an amendment for conversion of a petition or proceeding for judicial separation into a petition or proceeding, as the case may be, for divorce.

STATEMENT OF OBJECTS AND REASONS

The Hindu Marriage Act, 1955 (25 of 1955), became law on the 18th May, 1955. It applies to all Hindus, Buddhists, Jainas or Sikhs. It applies also to all other persons who are not Muslims, Christians, Parsis or Jews unless they establish that they were not governed by Hindu law, custom or usage prior to the Act.

Since the passing of the Hindu Marriage Act, various suggestions for amending the same as well as the Special Marriage Act, 1954, were received from some Members of Parliament and the general public. The Special Marriage Act, 1954, being a civil law applicable to all, has necessarily to keep pace with any reform of matrimonial laws. The Law Commission was requested to examine the matter and they have presented the Fifty-ninth Report which contains their recommendations. The Bill seeks to amend both the Acts aforesaid so as to implement, with necessary modifications, the recommendations contained in that Report. The Committee on Status of Women in India have generally supported the amendments proposed by the Law Commission and suggested, *inter alia*, the incorporation of a suitable provision for mutual consent in the Hindu Marriage Act more or less on the lines of a provision in that behalf in section 28 of the Special Marriage Act. It is, however, felt that when once the parties have chosen to move the court for divorce by mutual consent, it is not necessary to make them wait for a further period of one year to obtain relief. This period of waiting is, therefore, proposed to be reduced from one year to six months. The Committee has further suggested that having regard to the frequent violations of the provisions of the Child Marriage Restraint Act, it is necessary to provide in the Hindu Marriage Act a suitable provision conferring the right of repudiation on girls who are subject to such marriages, whether the marriage was consummated or not. The right of repudiation is proposed to be conferred on such girls subject to their exercising the same before attaining the age of 18 years. To avoid multiplicity of litigation and consequent delay, it is also proposed to apply the amended law in relation to all pending proceedings under the relevant Acts. Notes on clauses appended to the Bill indicate the changes proposed to the statutes. The objects of the legislation are mainly, (1) to liberalise the provisions relating to divorce; (2) to enable expeditious disposal of proceedings under the Act; and (3) to remove certain anomalies and handicaps that have come to light after the passing of the Acts.

The Bill seeks to achieve the above-mentioned purposes.

NEW DELHI; H. R. GOKHALE.

The 11th March, 1976.

Notes on clauses

Clause 2.—This clause seeks to amend section 5 of the Hindu Marriage Act relating to conditions for a Hindu marriage by substituting clause (ii) thereof so as to make clear the circumstances in which unsoundness of mind, mental disorder, insanity or epilepsy shall invalidate a marriage.

Clause 3.—Sub-clause (a) seeks to insert a new Explanation in sub-section (1) of section 9 to clarify that the burden of proving reasonable excuse for withdrawing from the society shall be on the person who has withdrawn from the society of other.

Sub-clause (b) seeks to omit sub-section (2) of section 9 as it has the unintended effect of restricting the scope of defence of reasonable excuse available to the respondent.

Clause 4.—This clause seeks to substitute sub-section (1) of section 10 so as to make the grounds on which a decree for judicial separation may be passed identical to that required in respect of a decree for divorce.

Clause 5.—This clause seeks to amend section 11 relating to void marriages so as to make it clear that the petition may be presented only during the lifetime of the spouse.

Clause 6.—One of the grounds for avoiding the marriage under section 12 is "impotence at the time of the marriage". Clause (a) of sub-section (1) of section 12 is proposed to be amended so as to enable the spouse to avoid a marriage where the same has not been consummated due to the impotence of the other party.

Clause (c) of sub-section (1) of section 12 is also proposed to be amended so as to provide that "fraud" as to the nature of the ceremony of marriage as to any material fact or circumstance concerning the respondent shall constitute a ground for avoiding marriage.

Clause 7.—*Sub-clause* (*a*).—Sub-clause (1) of section 13 of the Act spells out the grounds on which a decree of divorce may be sought. One of the grounds is "living in adultery". The same is sought to be substituted so as to make it clear that a single act of voluntary sexual intercourse by either party with any person other than his or her spouse shall constitute a ground for the other party. Cruelty, and desertion (for a continuous period of not less than two years) are also sought to be included as additional grounds for divorce. The ground relating to incurable unsoundness of mind can be relied on at present only if it has been there for a continuous period of not less than three years immediately before the presentation of the petition. This requirement regarding minimum period is proposed to be dispensed with. Further, this ground does not seem to cover cases where the mental disorder (continuous or intermittent) is of such a kind and to such an extent that the petitioner cannot reasonably be expected to live with the respondent, as in the case of mental disorder, it is very difficult to predicate with certainty that it is incurable. The ground has, therefore, been suitably expanded.

Sub-clause (*b*).—Sub-section (1A) of section 13 provides that either party to the marriage may apply for a decree of divorce if two years or more have elapsed after a decree for judicial separation or a decree for restitution of conjugal rights without reconciliation having taken place. It is proposed to reduce the period of two years to one year.

Sub-clause (*c*).—New sub-clause (iii) is being inserted in sub-section (2) of section 13 so as to provide that a wife may seek divorce if a period of one year has lapsed after the passing of an order or decree awarding maintenance to the wife under the Hindu Adoptions and Maintenance Act, 1956 or under section 125 of the Code of Criminal Procedure, 1973, and if there has not been any reconciliation during that period. Sub-clause (iv) is being inserted to the same sub-section so as to confer on girls who have been married before attaining the age of 15 years, a right of repudiation before attaining the age of 18 years.

Clause 8.—New section 13A is proposed to be inserted to provide that under certain circumstances the court may, while dealing with a petition for divorce, have a discretion to grant a decree for judicial separation instead. New section 13B seeks to provide for divorce by mutual consent.

Clause 9.—Section 14 of the Hindu Marriage Act provides that no petition for divorce shall ordinarily be presented within three years of marriage. This clause seeks to amend section 14 so as to reduce the said period from three years to one year.

Clause 10.—This clause seeks to do away with the waiting period of one year after a decree of divorce.

Clause 11.—This clause seeks to substitute section 16 so as to clarify the intention and to remove difficulties in interpretation.

Clause 12.—Section 19 of the Act provides that petition shall be presented to the district court within the limits of whose ordinary civil jurisdiction the marriage was solemnised or the husband and wife reside or last resided together. That section is sought to be substituted so as to enable the parties to institute proceedings in the court within whose ordinary original jurisdiction—

(*i*) the marriage was solemnized;

(*ii*) the respondent resides at the time of the presentation of the petition;

(*iii*) the parties to the marriage last resided together; or

(*iv*) the petitioner resides, in a case where the respondent has not been heard of or resides outside the territories to which the Act extends.

Clause 13.—This clause seeks to amend section 20 of the Act to provide that in the case of void marriages the petition need not contain averment to the effect that there is no collusion between the parties.

Clause 14.—This clause seeks to insert new sections 21A, 21B and 21C so as to provide—

(*i*) that where proceedings seeking relief of judicial separation or divorce are filed in different courts, the court wherein the petition was earlier presented shall try and dispose of all the matters (New section 21A);

(*ii*) for expeditious disposal of proceedings (New section 21B);

(*iii*) for admissibility of documents even if not duly stamped or registered (New section 21C).

Clause 15.—This clause seeks to substitute section 22 of the Act relating to conduct of proceeding *in camera* so as to make it obligatory in all proceedings under the Act.

Clause 16.—This clause seeks to amend section 23 so as to provide—

(*i*) that in a case where the petitioner is insane or suffering from mental disorder, the question of the petitioner taking advantage of his or her own wrong or disability shall not arise and that when a divorce is sought on the ground of mutual consent, such consent has not been obtained by force, fraud or undue influence [*See* sub-clause (a)];

(*ii*) that in the case of void marriages the question of collusion is not relevant [*See* sub-clause (a)];

(*iii*) that in certain cases where the grounds relied upon are such that it does not call even for an attempted reconciliation, sub-section (2) of that section shall not apply [*See* sub-clause (b)];

(*iv*) that the court may adjourn the proceedings and refer the matter to any person to attempt reconciliation and report [*See* sub-clause (c)];

(*v*) that the court shall give a copy of every decree of divorce free of cost to each of the parties.

Clause 17.—This clause seeks to insert new section 23A with a view to avoid multiplicity of proceedings. It is proposed that where a proceeding is initiated by a party on the ground of adultery, cruelty or desertion, the respondent may not only oppose the relief sought but may also make a counter-claim for any relief under the Act on that ground.

Clause 18.—This clause seeks to amend section 25 so as to clarify the intention and to eliminate difficulties in interpretation.

Clause 19.—This clause seeks to substitute section 28 to clarify the provisions relating to appeal and enforcement of decrees and orders.

Clause 20.—This clause seeks to amend clause (e) of section 2 of the Special Marriage Act so as to give a more comprehensive definition of the term "district court".

Clause 21.—This clause seeks to amend section 4 of the Special Marriage Act relating to conditions for solemnization of marriages under the Act. Clause (b) is being widened so as to make it clear that neither party shall be persons suffering from unsoundness of mind, mental disorder, insanity or epilepsy.

Clause 22.—In view of section 19 of the Act, when a Hindu, Buddhist, Sikh or Jaina marries under the Special Marriage Act, it automatically effects his severance from the family. Section 20 provides that every person whose marriage is solemnized under the Act shall have the same rights and be subject to the same disabilities in regard to the right of succession to any property of the person to whom the Caste Disabilities Removal Act, 1950 applies. Section 21 provides that succession to properties of persons marrying under the Act shall be regulated by the provisions of the Indian Succession Act. Now section 21A is proposed for providing that section 19, section 21 and such part of section 20 as creates a disability shall not apply to cases where both parties to the marriage belong to Hindu, Buddhist, Sikh or Jaina religion.

Clause 23.—This clause seeks to insert an Explanation to section 22 of the Act to clarify that the burden of proving reasonable excuse for withdrawing from the society shall be on the person who has withdrawn from the society of the other.

Clause 24.—This amendment is consequential to the insertion of new sub-section (1A) in section 27 of the Act.

Clause 25.—This clause seeks to amend section 24 relating to void marriages so as to make it clear that a petition may be presented only during the lifetime of the spouse.

Clause 26.—This clause seeks to substitute section 26 so as to clarify the intention and to remove difficulties in interpretation.

Clause 27.—Sub-section (1) of section 27 of the Act spells out the grounds on which a decree of divorce may be sought. Clause (a) of this sub-section regarding the ground of adultery is proposed to be recast to make it clear that a single act of voluntary sexual intercourse by either party with any person other than his or her spouse shall constitute a ground in favour of the other party [*vide* sub-clause (a)].

Clause (b) of this sub-section relating to desertion is proposed to be modified to say that desertion for a continuous period of not less than two years immediately before presentation of the petition shall constitute a ground for divorce [*vide* sub-clause (a)].

In clause (c) of this sub-section, the proviso is proposed to be omitted so as to eliminate the requirement that three years' imprisonment must have been undergone [*vide* sub-clause (b)].

Clause (e) of this sub-section provides that if a party has been incurably of unsound mind for a continuous period of not less than three years immediately preceding the presentation of the petition, the requirement regarding minimum period is proposed to be dispensed with. Further, this ground does not cover cases where the mental disorder (continuous or intermittent) is of such a kind and to such an extent that the petitioner cannot reasonably be expected to live with the respondent, as in the case of mental disorder, it is very difficult to predicate with certainty that it is incurable. This ground has, therefore, been suitably expanded. Similarly, in clauses (e) and (f) of this sub-section also, the requirement of minimum period is proposed to be dispensed with [*vide* sub-clauses (c) and (d)].

The new Explanation, proposed to be inserted, spells out the meaning of the expression "desertion" [*vide* sub-clause (e)].

New sub-clause (1A) is proposed to be inserted so as to provide that the wife may also seek divorce if a period of one year has elapsed after the passing of an order or a decree awarding maintenance to the wife under the Hindu Adoptions and Maintenance Act, 1956, or in a proceeding under section 125 of the Code of Criminal Procedure, 1973, and if there has not been any reconciliation during that period [*vide* sub-clause (g)].

Clause 28.—This clause seeks to insert new section 27A so as to provide that under certain circumstances the court may, while dealing with a petition for divorce, have discretion to grant a decree for judicial separation instead.

Clause 29.—Section 28 of the Act provides for divorce by mutual consent. This clause seeks to amend section 28 so as to reduce the period of waiting after presentation of a petition thereunder before making a further motion in court from one year to six months.

Clause 30.—Section 29 of the Act prohibits the filing of petition for divorce within three years of marriage except under exceptional circumstances. This clause seeks to reduce this period from three years to one year.

Clause 31.—This clause seeks to do away with the waiting period of one year after a decree of divorce.

Clause 32.—Sub-section (*1*) of section 31 provides that the petition shall be presented to the district court within the limits of whose jurisdiction the marriage was solemnized or the husband and wife reside or last resided together. This section is sought to be substituted so as to enable the parties to institute proceedings in the court within whose ordinary original jurisdiction—

(*i*) the marriage was solemnized;

(*ii*) the respondent resides at the time of the presentation of the petition;

(*iii*) the parties to the marriage last resided together; or

(*iv*) the petitioner resides in a case where the respondent has not been heard of or resides outside the territories to which the Act extends.

Clause 33.—This clause seeks to substitute section 33 of the Act relating to the conduct of proceedings *in camera* so as to make it obligatory in all proceedings under the Act.

Clause 34.—Sub-section (2) of section 34 provides that before granting relief under this Act the court of the first instance shall make every endeavour to bring about reconciliation. It is proposed that this requirement is unnecessary in cases where grounds relied upon are such as not to call for reconciliation. The court is also being enabled to adjourn proceedings and refer the matter to any person to attempt reconciliation and report. It is also proposed to give a copy of the decree of divorce free of cost to each of the parties. The section is proposed to be amended for these purposes.

Clause 35.—Section 35 is proposed to be amended so as to provide that where a proceeding is initiated by a party on the ground of adultery, cruelty or desertion, the respondent may not only oppose the relief sought but may make a counter-claim for any relief under the Act on that ground.

Clause 36.—This clause seeks to amend section 37 of the Act (which deals with permanent alimony and maintenance) so as to clarify the intention and to eliminate difficulties in interpretation.

Clause 37.—This clause seeks to substitute section 39 to clarify the provisions relating to appeal and enforcement of decrees and orders

Clause 38.—This clause seeks to insert new sections 40A, 40B and 40C so as to provide—

(*i*) that where proceedings seeking relief of judicial separation and divorce are filed in different courts, the court wherein the petition was earlier presented shall try and dispose of all the matters (New section 40A);

(*ii*) for expeditious disposal of proceedings (New section 40B);

(*iii*) for admissibility of documents even if not duly stamped or registered (New section 40C).

Clause 39.—This clause seeks to provide that all petitions and proceedings under the Hindu Marriage Act and the Special Marriage Act as are pending at the commencement of the Marriage Laws (Amendment) Act, 1976, shall be dealt with in accordance with the law as amended.

FINANCIAL MEMORANDUM

Clause 16 of the Bill which seeks to amend section 23 of the Hindu Marriage Act, 1955 and clause 34 which seeks to amend section 34 of the Special Marriage Act, 1954, *inter alia*, provide that in every case where a marriage is dissolved by a decree of divorce, the court passing the decree shall give a copy thereof free of cost to each of the parties. Such copies would, in most cases, be carbon copies. So far as the States are concerned, even this small expenditure will be met out of their respective Consolidated Fund. As for the Union territories, this would technically involve expenditure from the Consolidated Fund of India and such expenditure in the granting of copies in relation to Union territories cannot be properly estimated. However, the expenditure is not likely to exceed rupees two thousand per annum. There will be no non-recurring expenditure.

B. N. BANERJEE,
Secretary-General.

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